

RECEIVED
CENTRAL FAX CENTER

SEP 02 2005

PATENT
5468-08700 (AUS920010402US1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Kumhyr et al.

Serial No.: 09/967,219

Filed: September 28, 2001

For: **COMPUTER-BASED
COMMUNICATION USING
MULTIPLE COMMUNICATIONS
CHANNELS**

Group Art Unit: 2143
Examiner: Dennison, J.

Atty. Dkt. No. AUS920010402US1

I hereby certify that this correspondence is being transmitted via facsimile or deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1950, Alexandria, VA 22313, on the date indicated below:

09/02/2005
Date

Kevin L. Daffer

DECLARATION UNDER 37 C.F.R. 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

I, David Kumhyr, hereby declare and state that:

1. I am one of the named co-inventors in the above-identified patent application, which is a U.S. patent application, Serial No. 09/967,219, filed September 28, 2001.
2. I have been informed that in the present application, certain claims have been rejected on reference to Rudd et al., U.S. Patent Application Publication No. 2003/0055844, published March 20, 2003 and filed on September 14, 2001.

CONCEPTION

3. As set forth in more detail below, I conceived the subject matter claimed in the present application within the United States before September 14, 2001. The subject matter includes a method for sending a

message by computer-based communication, where the method includes: selecting two or more communications applications to be used for transmission of the message, dividing the message into separate portions appropriate for sending by the respective selected communications applications, and sending each separate portion of the message using a different one of the selected communications applications, such that the entirety of the message is sent. For example, the two or more communications applications may be selected from a group comprising email, instant messaging, message boards, internet chat, IP telephone and video conferencing applications. In some cases, the method may further include a step of receiving a characteristic of the transmission from the sender. For example, the characteristic may be selected from a group comprising a speed of the transmission, a level of security of the transmission and a size of the message to be sent.

4. Exhibit A attached hereto is a true and correct copy of the invention disclosure consisting of ten (10) pages which evidences our conception date before September 14, 2001. For example, Exhibit A shows that the invention disclosure document was created on May 16, 2000. The actual date of conception (i.e., the date the invention was "workable") has been redacted from Exhibit A. The invention disclosure is only one example of an earlier conception date of our invention set forth in the claims of our captioned patent application.

5. Exhibit A describes the broad concepts behind the "scatter/gather method," a label given to the presently claimed method of using two or more communications applications for sending different portions of a message. For example, Exhibit A illustrates one embodiment of the "scatter/gather method," in which the appropriate communications applications are selected based on the size of the message to be sent and the availability of the user. Exhibit B also notes that the "scatter/gather method" may be implemented using multiple communications channels (i.e., applications) selected for redundancy, security, insurance, service level (i.e., speed of transmission), etc.


REDUCTION TO PRACTICE AND DILIGENCE

6. From at least a time prior to September 14, 2001 through the filing of the application on September 28, 2001, plans were undertaken to prepare the captioned patent application, which was commissioned to Kevin Daffer at Conley, Rose & Tayon, P.C. We did not abandon, suppress, or conceal the ideas set forth in the claimed invention during at least the time beginning prior to September 14, 2001 through the filing of the application on September 28, 2001.

7. Upon information and belief, it is my informed understanding that diligence in reducing the invention to practice was therefore maintained from at least as early as May 16, 2000 through the filing of the application on September 28, 2001.

8. We hereby declare that all statements made herein of our own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 2 Sep 2005



David Kunhyr